

REMARKS

This amendment and response is being submitted on October 21, 2003. A response to paper No. 6, mailed 5/21/2003 was originally due on August 21, 2003. Filed herewith is a request for a two month extension of time, with the appropriate fee. Thus a response is due on October 21, 2003. Accordingly, this response is timely filed. Applicants respectfully request the amendment and response submitted herewith be made of record in the present application.

Claim Status

Claims 1-38 were originally filed in this application. Claims 1 and 38 have been amended in accordance with the Examiner's indication of allowable subject matter, i.e. incorporating the subject matter of originally filed claims 20 and 21. Support for this claim amendment is found in the original claims 20 and 21 and throughout the specification. Claim 4 has been amended to recite that the electrode particle size is after sintering. Support for this amendment is found in the specification as filed at page 8, lines 18-21. Claim 5 has been amended to recite that the porosity is after sintering. Support for this amendment is found in the specification as filed at page 17, lines 28-30. Claim 6 has been amended to recite that the electrode porosity is after sintering. Support for this amendment is found in the specification as filed at page 17, lines 30-34. No new matter is added by these amendments, and entry is respectfully requested.

Specification

The specification has been amended in accordance with the Examiner's suggestion to reflect that the electrode is labeled 256 and not 266. The terms "anode"

and “cathode” have been deleted. These changes do not introduce new matter and entry is respectfully requested.

Drawings

A replacement set of drawings is submitted herewith. There are no amendments to the drawings. However, the replacement set is cleaner and easier to read. Entry is respectfully requested.

ALLOWABLE SUBJECT MATTER

Applicants gratefully acknowledge the Examiner’s indication of allowable subject matter in claims 20 and 21.

CLAIM REJECTIONS

35 U.S.C. §112, 2nd paragraph

Claims 4-6 and 31-33 have been rejected under 35 U.S.C. 112 second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The office action states that “claims 4-6 recite particle sizes or porosities, but do not specify whether these are for the unsintered precursor or for the sintered product. In response, Applicants have amended the claims to so specify. Support for the amendments is set forth above. Applicants believe that the claims, *as amended* overcome the rejection and respectfully request that this rejection be withdrawn.

The office action states that “claims 31-33 recite that the electrolyte is a mixed ionic electronic conductor, but the electronic conductivity would short circuit the cell using the electrolyte”. The Examiner is correct. However, applicants believe that the claim is clear and not indefinite because the present invention contemplates that the

composite article claimed can also be used as a permeation membrane in an oxygen gas separator. Page 13, line 32 to page 14, line 3 describes such an embodiment, where the electrolyte comprises a mixed ionic electronic conductor (MIEC). Accordingly, applicants respectfully request that the rejection be withdrawn.

35 U.S.C. §102

Claims 1-3, 7-10, 13-14, 16-17, 19, 22-23, 27-28 and 34-38 have been rejected under 35 U.S.C. 102(a) and (e) as allegedly being anticipated by Fasano et al. (US 6,051,330). Applicants have amended claims 1 and 38 in accordance with the Examiner's indication of allowable subject matter, incorporating the subject matter of originally filed claims 20 and 21 into independent claims. Thus, Applicants respectfully submit that this rejection has been overcome, and withdrawal is requested.

Claims 1-3, 7, 10, 19, 27, 28, 34-37 and 38 have been rejected under 35 U.S.C. 102(a) and (e) as allegedly being anticipated by Fasano et al. (US 6,051,173). Applicants have amended claims 1 and 38 in accordance with the Examiner's indication of allowable subject matter, incorporating the subject matter of originally filed claims 20 and 21 into independent claims. Thus, Applicants respectfully submit that this rejection has been overcome, and withdrawal is requested.

Claims 1, 16-19, 37 and 38 have been rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Armstrong et al. (US 5,286,322). Applicants have amended claims 1 and 38 in accordance with the Examiner's indication of allowable subject matter, incorporating the subject matter of originally filed claims 20 and 21 into independent claims. Thus, Applicants respectfully submit that this rejection has been overcome, and withdrawal is requested.

35 U.S.C. §103(a)

Claims 11-12, 15, 24-27, 29 and 30 have been rejected under 35 U.S.C. 103(a) as allegedly being obvious over Fasano et al. (US 6,051,330). Applicants have amended claims 1 and 38 in accordance with the Examiner's indication of allowable subject matter, incorporating the subject matter of originally filed claims 20 and 21 into independent claims. Thus, Applicants respectfully submit that this rejection has been overcome, and withdrawal is requested

Conclusion

Having overcome all rejections, Applicants respectfully requests that a timely Notice of Allowance be issued in this application. If a telephone conversation will expedite the prosecution of this application, the Examiner is kindly invited to call Applicant's representative at the telephone number listed below.

All fees believed due have been submitted. If Applicant is wrong in this assumption, the PTO is authorized to charge any deficiency to Applicant's account number 120690. The PTO is not authorized to charge the issue fee to this account.

Respectfully Submitted,



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